

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

BROADCAST MUSIC, INC.; SEASONS  
FOUR MUSIC; EMI CONSORTIUM SONGS,  
INC. d/b/a EMI LONGITUDE MUSIC;  
TOKECO TUNES; EMI BLACKWOOD  
MUSIC, INC.; and CHECK OUT MUSIC,

Plaintiffs,

v.

KAZ ENTERPRISES INC. d/b/a CLUB  
EVOLUTION; and CELSO CASIMIRO  
VILLA and EDUARDO VALENTIN,  
each individually,

Defendants.

Case No. 18-cv-1215

**COMPLAINT**

Plaintiffs, by their undersigned attorneys, for their Complaint against Defendants Kaz Enterprises Inc. d/b/a Club Evolution, Celso Casimiro Villa, and Eduardo Valentin (collectively, “Defendants”), allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

**JURISDICTION AND VENUE**

1. This is an action for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§101 *et seq.* (the “Copyright Act”). This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

### **THE PARTIES**

3. Plaintiff Broadcast Music, Inc. (“BMI”) is a corporation organized and existing under the laws of the State of Delaware. BMI’s principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 13 million copyrighted musical compositions (the “BMI Repertoire”), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Seasons Four Music is a partnership owned by Robert Gaudio and Frankie Valli. This Plaintiff is a copyright owner of at least one of the songs in this matter.

6. Plaintiff EMI Consortium Songs, Inc. is a corporation doing business as EMI Longitude Music. This Plaintiff is a copyright owner of at least one of the songs in this matter.

7. Plaintiff Tokeco Tunes is a sole proprietorship owned by Toby Keith Covel. This Plaintiff is a copyright owner of at least one of the songs in this matter.

8. Plaintiff EMI Blackwood Music, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

9. Plaintiff Check Out Music is a sole proprietorship owned by Jerry Frankel. This Plaintiff is a copyright owner of at least one of the songs in this matter.

10. Defendant Kaz Enterprises Inc. is a corporation organized and existing under the laws of the state of New York, that operates, maintains and controls an establishment known as

Club Evolution (the “Establishment”), located at 76-19 Roosevelt Avenue, Jackson Heights, New York 11372, in this district.

11. In connection with the operation of the Establishment, Defendant Kaz Enterprises Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

12. Defendant Kaz Enterprises Inc. has a direct financial interest in the Establishment.

13. Defendant Celso Casimiro Villa is a principal of Defendant Kaz Enterprises Inc. with responsibility for the operation and management of that corporation and the Establishment.

14. Defendant Celso Casimiro Villa has the right and ability to supervise the activities of Defendant Kaz Enterprises Inc. and a direct financial interest in that corporation and the Establishment.

15. Defendant Eduardo Valentin is a principal of Defendant Kaz Enterprises Inc. with responsibility for the operation and management of that corporation and the Establishment.

16. Defendant Eduardo Valentin has the right and ability to supervise the activities of Defendant Kaz Enterprises Inc. and a direct financial interest in that corporation and the Establishment.

### **CLAIMS OF COPYRIGHT INFRINGEMENT**

17. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 16.

18. Since March, 2015, BMI has reached out to Defendants over fifty (50) times, by phone, mail, and email, in an effort to educate Defendants as to their obligations under the Copyright Act with respect to the necessity of purchasing a license for the public performance of musical compositions in the BMI Repertoire. Included in the letters were Cease and Desist Notices,

providing Defendants with formal notice that they must immediately cease all use of BMI-licensed music in the Establishment.

19. Plaintiffs allege four (4) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

20. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the four (4) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to "Lines" are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the establishment where the infringement occurred.

21. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

22. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all

respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

23. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

24. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

25. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. § 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. § 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. § 505; and

(IV) Plaintiffs have such other and further relief as is just and equitable.

Dated: February 23, 2018  
New York, New York

**GIBBONS P.C.**

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## *Schedule*

Line 1	Claim No.	1
Line 2	Musical Composition	Can't Take My Eyes Off Of You AKA Can't Take My Eyes Off You
Line 3	Writer(s)	Bob Crewe; Bob Gaudio
Line 4	Publisher Plaintiff(s)	Robert Gaudio and Frankie Valli, a partnership d/b/a Seasons Four Music; EMI Consortium Songs, Inc. d/b/a EMI Longitude Music
Line 5	Date(s) of Registration	4/24/67 8/28/69
Line 6	Registration No(s).	Eu 993614 Ep 265189
Line 7	Date(s) of Infringement	4/26/17
Line 8	Place of Infringement	Club Evolution

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Line 1	Claim No.	2
Line 2	Musical Composition	Who's Your Daddy?
Line 3	Writer(s)	Toby Keith Covell
Line 4	Publisher Plaintiff(s)	Toby Keith Covell, an individual d/b/a Tokeco Tunes
Line 5	Date(s) of Registration	8/9/02
Line 6	Registration No(s).	PA 847-122
Line 7	Date(s) of Infringement	4/26/17
Line 8	Place of Infringement	Club Evolution

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Line 1	Claim No.	3
Line 2	Musical Composition	Rehab
Line 3	Writer(s)	Amy Winehouse
Line 4	Publisher Plaintiff(s)	EMI Blackwood Music, Inc.
Line 5	Date(s) of Registration	3/15/07
Line 6	Registration No(s).	PA 1-167-207
Line 7	Date(s) of Infringement	4/26/17
Line 8	Place of Infringement	Club Evolution

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Line 1	Claim No.	4
Line 2	Musical Composition	With You I'm Born Again
Line 3	Writer(s)	David Shire; Carol Connors
Line 4	Publisher Plaintiff(s)	Jerry Frankel, an individual d/b/a Check Out Music
Line 5	Date(s) of Registration	11/26/79
Line 6	Registration No(s).	PA 53-748
Line 7	Date(s) of Infringement	4/26/17
Line 8	Place of Infringement	Club Evolution

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